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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/422,195	10/21/1999	DIMITRI KANEVSKY	12837(YO999-	5232

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EXAMINER

CHAMPAGNE, DONALD

ART UNIT PAPER NUMBER

2162

DATE MAILED: 03/18/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/422,195

Applicant(s)

KANEVSKY ET AL.

Examiner

Donald L. Champagne

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,7,13,15-17,20,22,28-30,33,35 and 41 is/are rejected.
- 7) ☒ Claim(s) 3,4,6,8-12,14,18,19,21,23-27,31,32,34 and 36-40 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 21 October 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 5, 7, 13, 15-17, 20, 22, 28-30, 33, 35 and 41 are rejected under 35 U.S.C. 103(a) as obvious over Nielsen Air in view of Aho et al.
3. Nielsen Air teaches (independent claims 1, 16 and 29) a system, method and program storage device readable by a machine, the method comprising: surveying 3,000 passengers and airport visitors, which reads on obtaining and collecting data relating to two or more persons; developing *preliminary findings* from the data, which reads on extracting common elements from the characteristics of the two or more persons said collected data.
4. Nielsen Air does not teach associating products and services for advertisements with the common elements, and generating an advertisement related to the products and services. Because Nielsen Air teaches that the survey was performed to measure the response to airport advertising, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to associating products and services for advertisements with the common elements, and generate an advertisement related to the products and services.
5. Nielsen Air does not teach transmitting and communicating said optimized advertisement to said two or more persons. Aho et al. teaches (col. 9 lines 12-13) transmitting and communicating an advertisement to a billboard, which reads on to two or more persons. Because Aho et al. teaches enhanced display capability designed to make the ad more effective, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to add the teachings of Aho et al. to those of Nielsen Air.
6. Nielsen Air does not teach (claims 2, 17 and 30) a database memory. However, under the principles of inherency (MPEP § 2112.02), since the reference invention necessarily performs the method claimed, the method claimed is considered to be anticipated by the

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reference invention. As evidence tending to show inherency, it is noted that the very collection of data taught by the reference reads on a database memory. Alternatively, because they are efficient and convenient, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to place the collected data into an electronic database memory.

7. Nielsen Air also teaches: (claims 5, 20 and 33) obtaining physical data (e.g., sex) and (claims 7, 22 and 35) data relating to behavioral characteristics (e.g., flying).
8. Nielsen Air does not teach (claims 13, 28 and 41) a network or (claim 15) a billboard. Aho et al. teaches (col. 7 line 4) a network and a billboard (para. 5 above). Because Aho et al. teaches that a network provides flexibility for storage, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to add the teachings of Aho et al. to those of Nielsen Air.

Allowable Subject Matter

9. Claims 3, 4, 6, 8-12, 14, 18, 19, 21, 23-27, 31, 32, 34 and 36-40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
10. The following is an examiner's statement of reasons for the indication of allowable subject matter for all the claims except 6, 21 and 34: the closest prior art, Nielsen Air, does not teach or suggest obtaining data related to a product purchasing transaction by said two or more persons. Catalina Marketing teaches providing data related to a product purchasing transaction by 165 million persons, and Experian teaches providing data related to a product purchasing transaction by 98 million mail-order buyers, which is a reasonable approximation of said two or more persons. Catalina also teaches a data-gathering service for merchants. However, the prior art does not teach or suggest combining the teachings of Catalina Marketing or Experian with those of Nielsen Air.
11. For claims 6, 21 and 34: the closest prior art, Nielsen Air, does not teach or suggest obtaining biometric data on said two or more persons. Stinson et al. teaches obtaining biometric data and using it for identity confirmation (col. 2 lines 6-7). However, the prior art

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does not teach or suggest combining the teachings of Stinson et al. with those of Nielsen Air.

12. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
14. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.
15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald L Champagne whose telephone number is 703-308-3331. The examiner can normally be reached from 6:30 AM to 5 PM ET, Monday to Thursday. The examiner can also be contacted by e-mail at donald.champagne@uspto.gov, and *informal* fax communications may be sent directly to the examiner at 703-746-5536.
16. The examiner's supervisor, Eric Stamber, can be reached on 703-305-8469. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular official communications and 703-746-7238 for After Final official communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

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17. **ABANDONMENT** – If examiner cannot by telephone verify applicant's intent to continue prosecution, the application is subject to abandonment six months after mailing of the last Office action. The agent, attorney or applicant point of contact is responsible for assuring that the Office has their telephone number. Agents and attorneys may verify their registration information including telephone number at the Office's web site, www.uspto.gov. At the top of the home page, click on Site Index. Then click on Agent & Attorney Roster in the alphabetic list, and search for your registration by your name or number.

A handwritten signature in black ink, appearing to read "Donald L. Champagne", is written over a horizontal line.

Donald L. Champagne
Examiner
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16 March 2002